

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Children’s Television Programming Rules)	MB Docket No. 18-202
)	
Modernization of Media Regulation Initiative)	MB Docket No. 17-105

**COMMENTS OF AMERICA’S PUBLIC TELEVISION STATIONS,
THE CORPORATION FOR PUBLIC BROADCASTING, AND
THE PUBLIC BROADCASTING SERVICE**

America’s Public Television Stations (“APTS”),¹ the Corporation for Public Broadcasting (“CPB”),² and the Public Broadcasting Service (“PBS”)³ (collectively, “PTV”) welcome the invitation to provide input in response to the Federal Communications Commission’s (the “Commission”) Further Notice of Proposed Rulemaking on the proposed framework for facilitating the sponsorship of children’s educational content on noncommercial stations (the “Notice”).⁴ PTV supports the Commission’s goal of establishing a framework that will encourage stations to explore new sponsorship opportunities for children’s programming. In particular, PTV largely agrees with

¹ APTS is a non-profit organization whose membership comprises the licensees of nearly all of the nation’s CPB-qualified noncommercial educational television stations. The APTS mission is to support the continued growth and development of a strong and financially sound noncommercial television service for the American public.

² CPB is a private, non-profit corporation created and authorized by the Public Broadcasting Act of 1967 to facilitate and promote a national system of public telecommunications. Pursuant to its authority, CPB has provided millions of dollars in grant monies for support and development of public broadcasting stations and programming.

³ PBS, with over 330 member stations across the country, offers all Americans the opportunity to explore new ideas and new worlds through television and online content. Each month, PBS reaches nearly 100 million people through television and nearly 30 million people online, inviting them to experience the worlds of science, history, nature, and public affairs; to hear diverse viewpoints; and to take front row seats to world-class drama and performances.

⁴ Further Notice of Proposed Rulemaking, *In the Matter of Children’s Television Programming Rules*, FCC 19-67, MB Docket No. 18-202 (rel. July 12, 2019) [hereinafter “Notice”].

the first two elements that the Commission tentatively concluded should be part of any framework. However, the third element of the Commission’s tentative conclusions elevates the quantity of children’s programming over its quality and would unnecessarily limit potential sponsorship opportunities. Rather than require that sponsorship efforts result in new or expanded Core Programming, the Commission’s framework should allow for sponsorship efforts that increase the accessibility, availability, and image quality of existing children’s programming.

I. PTV Urges the Commission to Significantly Broaden the Scope of Permitted Uses for Special Sponsorship Funding in the Proposed Framework.

The Children’s Television Act of 1990 (the “CTA”) has long permitted the Commission to consider efforts by a licensee to “support programming broadcast by another station in the licensee’s marketplace” in determining whether that licensee has fulfilled its obligation under the CTA.⁵ Properly read and clearly defined, this statutory provision has the potential to open a new pathway for funding exciting and innovative growth in children’s educational broadcast media. Unlocking the potential of that provision requires a 21st century understanding of what it means to “support programming broadcast by another station.”⁶

The vast majority of noncommercial licensees are PBS members (approximately 90 percent), which means: (i) that they have long been required as a condition of membership to broadcast a minimum of 7 hours per weekday of educational children’s programming on their main channel; and (ii) that they are generally also broadcasting a dedicated children’s educational multicast channel 24 hours per day, 7 days per week (which is available to over 95 percent of U.S. TV households across the country for free over-the-air). “Educational” for these stations means

⁵ 47 U.S.C. § 303b(b)(2).

⁶ *Id.*

something very rigorous; it means that the content is research-based, created with input from expert curriculum advisors, and rooted in clear educational objectives – all with the goal of driving positive learning outcomes for children.⁷ Moreover, many of these stations go well above and beyond the minimum, broadcasting as much as 10 or 12 hours of children’s content per day on their main channel.⁸

Given the huge amount of children’s programming these stations currently broadcast, it would be impractical to increase the quantity of children’s content on most noncommercial stations, while continuing to serve the broad and diverse local communities of all age groups that such stations serve.⁹ But quantity is not the only – or the best – measure of effective and impactful support. Contrary to the Commission’s third tentative conclusion, the framework should not require (and the statute clearly *does not* require) that special sponsorship efforts result in the creation of new content or expand the hours of existing content. There are so many more effective and meaningful ways in which a local commercial station could financially support educational children’s content on a noncommercial station in its community. For instance, special sponsorship efforts could support the noncommercial licensee in:

- (i) upgrading its children’s multicast channel to more immersive and engaging high-definition delivery (potentially at some point with high dynamic range and wide color gamut video);

⁷ See, e.g., PBS KIDS Content Studies, *available at* www.pbskids.org/lab/research/content-studies.

⁸ Note that the hours referenced here only account for children’s content specifically designed for ages two to eight. Public television stations broadcast countless additional hours of high-quality educational content for teenage audiences with rigorous educational programs such as NOVA, Nature, and American Experience.

⁹ Moreover, the high cost of high-quality noncommercial curriculum-driven educational children’s programming makes it cost prohibitive to realistically create new programming hours using the limited funding that would be expected to come in from the envisioned scope of commercial licensee support.

- (ii) developing the technical capacity to pass through descriptive video services via broadcast for its existing children's content (potentially at some point in the future with picture-in-picture American Sign Language translations);¹⁰
- (iii) raising awareness of the children's programming available on local noncommercial stations through the in-kind contribution of broadcast advertising units or other air time on the commercial station for promotional clips;
- (iv) delivering its children's content to multichannel video programming distributor (MVPD) headends and receive facilities that are frequently being consolidated and moved further from station contours, necessitating significant investments by noncommercial educational stations to deliver a good quality signal and maintain essential carriage to the local community;
- (v) securing carriage on satellite operators that are not distributing the free noncommercial children's channel to their collective 33 million subscribers; or
- (vi) covering the expenses of delivering children's content to newly established virtual MVPDs (e.g., Sling TV, YouTube TV, Hulu Live) that are serving a growing number of people across the local communities of noncommercial stations.

These are just a few of the meaningful and impactful ways in which a commercial station could “support programming broadcast by another station in the licensee’s marketplace,” as set forth by the CTA in order to help fulfill the commercial station’s public interest obligations under the Act.¹¹

¹⁰ As noted in the Notice, “PBS also voluntarily provides video description for approximately 80% of its currently available catalog of children’s programming on PBS KIDS,” but many public television stations do not currently have the resources to pass through this service to their viewers. *See* Notice at ¶ 47 n.187.

¹¹ These recommendations are intended to be in addition to (not instead of) the possibilities of creating new Core Programming or expanding the hours of existing Core Programming, as proposed in the Notice.

PTV urges the Commission to adopt a broad understanding of “support” to enable noncommercial stations to use funding from local commercial stations in any way that benefits the quality, accessibility, or availability of children’s programming.

II. PTV Recommends that the Commission Adjust its First and Second Tentative Conclusions to Maximize the Framework’s Opportunities for Success.

With respect to how such sponsorship efforts should be attributed to a commercial station’s overall Core Programming hours, which the Commission asks about in its second tentative conclusion, PTV defers to commercial stations and the Commission on how best to structure that attribution, but in order to facilitate a broad understanding of the statutory term “support” beyond simply the quantity of content, PTV recommends implementing the approach proposed by the Commission of defining funding levels based on a “percentage of the sponsoring station’s advertising revenues for the timeslot ‘freed up’ as a result of the sponsorship.”¹² This would unleash an innovative market-based approach to contributing to the public good. Each commercial station would then be free to determine whether it preferred to continue broadcasting Core Programming itself or to begin broadcasting alternative programming and then donate a defined portion of the resulting advertising revenue to a local noncommercial station to support its educational children’s programming. The Commission would need to collaborate with commercial broadcasters to define the appropriate percentage, but a single fixed percentage would likely be sufficient to account for the market size and resources of the sponsoring station given that stations in larger markets with greater resources would be able to command greater advertising revenues for

¹² Notice at ¶ 78. The Commission should consider defining “advertising revenue” broadly to encompass any manner in which the sponsoring station might monetize the “freed up” time, including through infomercials, paid product integrations, or other monetization methods.

the “freed up” time and would therefore be contributing a larger amount to their local noncommercial station(s).

As for how to define “local,” which the Commission asks about in its first tentative conclusion, PTV has long recommended that the Commission not use Designated Market Areas in any regulations related to noncommercial licensees, so an “in-market noncommercial station” should be defined simply as one whose digital service contour includes the reference point of the sponsoring station’s community of license. The Commission need not go into detail on signal overlap requirements, but rather should simply focus on ensuring that the sponsoring station’s community of license is able to benefit from the financial contribution to a local noncommercial station.

CONCLUSION

By adopting the modern approach to implementing the CTA described above, the Commission could significantly facilitate financial investment in the very best educational children’s content, making that content more accessible, with more immersive and engaging image quality, and more broadly available to all viewers across the local community.

Respectfully submitted,

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